

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

UNITED STATES OF AMERICA

v.

4:06CR7

HUGO OLALDE ESPINDOLA,

Defendant.

REPORT AND RECOMMENDATION
CONCERNING GUILTY PLEA

Defendant, by consent, has appeared before the undersigned pursuant to Rule 11, Federal Rules of Criminal Procedure, and referral from a United States District Judge and has entered a guilty plea to one count of an indictment charging him with aggravated identity theft, in violation of 18 U.S.C. § 1028A. Defendant is also charged with one additional count of aggravated identity theft and two counts of possession of false immigration documents, in violation of 18 U.S.C. § 1546(2). Defendant understands that these charges will be dismissed upon acceptance of his guilty plea, and the United States confirmed defendant's understanding.

Defendant was represented by appointed counsel, Bryan L. Saunders, Esquire. On March 9, defendant appeared before the Court for the purpose of entering his guilty plea. He was appropriate in appearance, responsive, and competently prepared for the hearing.

Defendant answered all questions put to him in clear and concise language. On those occasions when he had a question, defendant consulted with counsel and then promptly answered. Defendant was courteous and appropriate in his behavior at all times and clearly

understood the seriousness of his position. At the close of the proceeding, defendant was remanded back to custody, where he has been awaiting trial.

Defendant is twenty-two years of age; attended primary, secondary, and one year of preparatory school in Mexico; and speaks very little English. At the beginning of the proceeding, an interpreter was sworn. Defendant and counsel worked well with the interpreter, and the Court perceived no problems during the hearing. There was no evidence that defendant was on drugs, alcohol, or medication which might impair his judgment. He was cooperative throughout the proceeding.

Defendant entered the guilty plea pursuant to a plea agreement. The Court is completely satisfied, based upon defendant's responses, that he fully appreciates his position. Furthermore, he acknowledged that the statement of facts prepared in anticipation of his plea accurately reflects the government's evidence, in the event of trial.

After cautioning and examining defendant under oath concerning each of the subjects mentioned in Rule 11, the Court determined that the offense charged is supported by independent facts, establishing each of the essential elements of such offense. Therefore, the Court recommends that the guilty plea be accepted and that defendant be adjudged guilty and have sentence imposed accordingly.

Failure to file written objections to this report and recommendation within ten days from the date of its service shall bar an

aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b)(1)(B).

/s/

James E. Bradberry
United States Magistrate Judge

Norfolk, Virginia

March 13, 2006

Clerk's Mailing Certificate

A copy of the foregoing Report was mailed this date to each of the following:

Bryan L. Saunders, Esquire
P.O. Box 1633
Newport News, VA 23606

Joseph E. DePadilla, Esquire
Assistant United States Attorney
United States Attorney's Office
101 West Main Street, Suite 8000
Norfolk, VA 23510

Elizabeth H. Paret, Clerk

By _____
Deputy Clerk
_____, 2006